



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Masaomi TAKAGI et al.

Title: ALUMINUM HOLLOW BENT
MEMBER AND VEHICULAR
MEMBER CONSTRUCTION

Appl. No.: 09/826,804

Filing Date: 04/06/2001

Examiner: E. Culbreth

Art Unit: 3616

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RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
Washington, D.C. 20231

Sir:

In response to the restriction requirement set forth in the Office Action dated October 9, 2002, Applicants elect Group III (Claims 9-16 and 18-19) and Species "a" (Figures 1-10), with traverse.

In the Restriction Requirement, the PTO has asserted that the original claim set should be restricted to one of the following, groups: I. Claims 1-5 and 7 (drawn to a metallic product); II. Claims 6, 8, 17 and 20 (drawn to a process of forming a member; and III. Claims 9-16 and 18-19 (drawn to a vehicle construction member). Applicants respectfully disagree.

To sustain a proper requirement for restriction, the PTO must demonstrate that there is a serious burden on the Examiner. Given the automated electronic search tools which are available at the PTO and which enable simultaneous searching of multiple classes and subclasses, Applicants submit that the PTO has failed to demonstrate that examination of all of the pending claims in the present application would constitute a serious burden.

Finally, Applicants note that the present application contains both product and process claims. Upon allowance of the elected claims, Applicants will be permitted to request rejoinder in accordance with MPEP §821.04 and *In re Ochiai*, 71 F.3d 1565 USPQ2d 1127 (Fed.Cir. 1995).

Applicants await an action on the merits. In the meantime, should the Examiner believe that further discussion of any issues would advance the prosecution, he is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,

Date November 12, 2002

By P.D.S.

FOLEY & LARDNER
Customer Number: 22428



22428

PATENT TRADEMARK OFFICE

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The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741.